IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

WP(C).No. 29585 of 2006(V)

PETITIONERS:

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1. A.DORAIRAJ, S/O.LATE ALBUTHASWAMI,
   KANALPIRIVU, PAMPAPALLAM P.O.,
   PALAKKAD DISTRICT.

2. MARIAMMA, W/O.LATE SOOSIYAPPAN,
   CHANDRAPURAM, VALAYARDAM P.O.,
   PALAKKAD DISTRICT.

BY ADV. SRI.D.KRISHNA PRASAD
SRI.D.NARENDRA NATH
SRI.G.HARIKUMAR
SRI.T.P.ELDHOSE
SMT.O.K.SANTHA

RESPONDENTS:

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1. SPECIAL DEPUTY COLLECTOR/SPECIAL LAND
   ACQUISITION OFFICER & COMPETENT AUTHORITY,
   NATIONAL HIGHWAY 47, PALAKKAD.

2. THE NATIONAL TRANSPORTATION PLANNING
   AND RESEARCH CENTER,
   REPRESENTED BY ITS CHIEF PROJECT CO-ORDINATOR/
   OFFICER, THIRUVANANTHAPURAM.

3. THE PROJECT DIRECTOR AND GENERAL MANAGER,
   NATIONAL HIGHWAYS AUTHORITY OF INDIA,
   TUSHARA BINDU, NO.337, CHANDRANAGAR EXTENSION,
   NARIKODE, PALAKKAD-678 007.

BY GOVT. PLEADER SRI. L.G. SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.T.SANKARAN, J

W.P.(C) No. 29585 of 2006

Dated this the 19th day of December, 2006

JUDGMENT

In spite of several postings, no instructions are received by the Govt. Pleader. Therefore, the Writ Petition is disposed of based on the uncontroverted averments contained in the Writ Petition.

2. Ext. P1 notification was issued proposing to acquire lands for widening the National Highway. The notification was issued in exercise of the powers conferred by Sub Section (1) of Section 3A of the National Highways Act, 1956. Objections were called for within 21 days of the publication of Ext. P1 notification from interested persons, under Sub Section (1) of Section 3C of the said Act. Ext. P1 mentions that every such objection shall be made to the competent authority, namely, the Special Deputy Collector, Palakkad in writing, and shall set out the grounds thereof. The notification further says that the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing

of all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objection.

3. The petitioners raised their objections to the proposal for acquisition. The first petitioner submitted Ext. P2 objection while the second petitioner and others submitted Ext. P3 objection. The petitioners received notices with regard to the hearing of the objections, the notice issued to the first petitioner being Ext. P5. It is mentioned in Ext. P5 that the first petitioner was to appear before the Special Deputy Collector on 29.3.2006 for hearing of the objections. The petitioners state that at the time of hearing, the authority concerned stated that they would visit the properties and make enquiries with notice to the parties and that the petitioners would be heard again. The contention raised by the petitioners is that the original proposal was to acquire properties from the southern side of the road for the purpose of widening the road. Lands on the southern side were measured and identified. The petitioners state that subsequently on account of the influence exerted by certain persons, the idea

of acquisition of land on the southern side of the road was dropped and a decision was taken to acquire the entire required land from the northern side of the road. It is also stated by the petitioners that they and similarly situated persons have no objection if equal extent of lands are taken from either side of the road for the purpose of widening the road.

4. The grievance voiced by the petitioners is that after the date fixed for appearance in Ext. P5, they have not received any intimation and that they are in the dark as to what transpired thereafter. It is also pointed out by the learned counsel for the petitioners that the competent authority has not disposed of the objections raised by the petitioners, as required in Ext. P1. The prayer in the writ petition is for the issue of a writ of mandamus or any other appropriate writ, direction or order directing the respondents to consider Ext. P2 and P3 objections, after affording an opportunity of being heard to the petitioners and to dispose of the same. Since Ext. P1 mandates that the competent authority shall, by order, either allow or disallow the objection, it is obligatory on the part of the first

respondent to dispose of Ext. P2 and P3 after affording an opportunity of being heard to the petitioners. Therefore, there will be a direction to the first respondent to dispose of Exts. P2 and P3 objections within a period of three months from today, after hearing the petitioners. Any order passed thereon by the first respondent shall be duly communicated to the petitioners. It is made clear that the petitioners shall not be dispossessed of their lands till a decision is taken on Ext. P2 and P3.

The Writ petition is allowed as indicated above.

K.T.SANKARAN,
JUDGE

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